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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1961

No. 1, J

ALBIN C. HALQUIST and
MADELINE E. HALQUIST,

Petitioners,

vs.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

REPLY BRIEF FOR PETITIONERS

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1961

No. 470

ALBIN C. HALQUIST and
MADELINE E. HALQUIST,

Petitioners,

vs.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

REPLY BRIEF FOR PETITIONERS

It now appears that a conflict between circuits may develop on the issue decided by the Seventh Circuit Court of Appeals in this case. The District Court for the western district of Virginia has just decided *Virginia Greenstone Company Inc. v. United States*, 61-2 U.S.T.C. ¶9667 and has reached a conclusion which is directly opposed to the decision of the Seventh Circuit in this case on facts which are almost identical to those here. Also the District Court for the western district of Mis-

souri recently decided *Centropolis Crusher Company v. Bookwalter*, 61-2 U.S.T.C. ¶9641 on remand from the Eighth Circuit and interpreted the *Cannelton* decision in exactly the way that the taxpayers asked the Seventh Circuit to interpret it in this case.

Both district courts have rejected the idea that a cut-off point can be established without reference to actual sales by considering the miner to sell the product of his quarry to himself.

Furthermore, the Commissioner himself took a positon contrary to the Seventh Circuit's decision herein in the recently announced case of *United States Pumice Supply Co.*, 36 T.C. No. 117 where the Tax Court adopted his position and permitted the sawing of pumice into uniform shaped blocks.

The Respondent has said, in opposition, that the lower courts are not having difficulty in applying *Cannelton*. The extreme differences in their decisions, as illustrated by the two cases above, contrasted with the Seventh Circuit's decision in this case, show that the lower courts cannot agree on what *Cannelton* teaches. And the pumice case cited above shows that the Commissioner is equally confused.

In this state of the law it is impossible for a taxpayer to obtain the justice of equal treatment of the laws if the Court permits *Cannelton* to stand without clarification.

Respectfully submitted,

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